

EXHIBIT C

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATHALY CORTEZ, INDIVIDUALLY)
AND ON BEHALF OF SIMILARLY)
SITUATED INDIVIDUALS,)
PLAINTIFF)
vs.) CASE NO. 4:21-CV-03991
CASA DO BRASIL, LLC)
DEFENDANT)

ORAL AND REMOTE DEPOSITION OF

JARBAS GOTTARDO

(CORPORATE REPRESENTATIVE OF CASA DO BRASIL, LLC)

August 1, 2022

ORAL AND REMOTE DEPOSITION OF JARBAS GOTTARDO,
CORPORATE REPRESENTATIVE OF CASA DO BRASIL, LLC, produced
as a witness at the instance of the Plaintiffs and duly
sworn, was taken in the above-styled and numbered cause
on the 1st day of August, 2022, from 10:01 a.m. to
2:50 p.m., before Cindi L. Bench, Certified Shorthand
Reporter in and for the State of Texas, reported by
computerized stenotype machine, wherein all parties were
present via Zoom Videoconferencing, pursuant to the
Federal Rules of Civil Procedure and the provisions
stated on the record or attached hereto.

1 with me.

2 Q. Okay. All right. So when someone -- customer
3 places an order, do the tipped employees log into the
4 point of sale system and ring up that order under their
5 employee ID number?

6 A. Yes.

7 Q. When the customer at the end of their meal or
8 when they finish their drink want to leave a tip for
9 this tipped employee, would that tip be reflected on the
10 POS system?

11 A. Well, they would leave the tip on the paper
12 receipt, and then the cashier that was in the back would
13 adjust the tip on the POS system. And at the end of the
14 night, one manager would go over and make sure that the
15 tips are corrected, inputted, and adjusted.

16 Q. So even -- understand. Like when you get a
17 restaurant, you get a bill, the customer, it doesn't
18 contain the tip right away unless it's a big table
19 that's an automatic gratuity, correct?

20 A. We don't do that here at our restaurant, we
21 just let the customer leave what they think is fair.

22 Q. I like that, too. Then the customer writes
23 down how much they want to tip, and so the cashier would
24 then record that tip into the POS system, under that
25 tipped employee's ID, correct?

1 A. Yes, correct.

2 Q. At the end of the night, by looking at all the
3 sales that were rung up by that tipped employee, you can
4 tell all the tips that they earned for that shift; is
5 that correct?

6 A. When you mean day, you referring to ...

7 Q. The tipped employees.

8 A. Correct.

9 Q. Okay. When it comes to paychecks, the POS
10 system will show how much tip was generated through
11 credit card tips for each tipped employee for that pay
12 period; is that correct?

13 A. Correct.

14 Q. Now I'm going to ask you now about the CSR.

15 So do the CSR, when they serve or help a
16 customer, do they ring up the sale under their own ID
17 number?

18 A. Yes. Yes, they should.

19 Q. And if the customer pays them in credit card
20 tips, you could easily determine how much credit card
21 tips they earned at the end of the night, correct?

22 A. Well, we work in pooling tips, so everybody
23 get the same but we can determine how much was sold.

24 MR. TRAN: Objection; nonresponsive.

25 Q. (By Mr. Tran) So sir, I'm going to ask the

1 question one more time.

2 So we're talking about credit card tips
3 now. So if a CSR rings up a sale for a customer under
4 that CSR's ID number, at the end of the night, the POS
5 system will show all the credit card tips that were paid
6 to that CSR, is that correct, that they earned?

7 A. Yes.

8 Q. Okay. How do you track how much tip a CSR
9 earned and is paid?

10 A. We have a different system, different than
11 most restaurant. We instead of everybody getting their
12 tips, it all goes to a pool and then they all get their
13 share according to the formula was created.

14 Q. So tell me about his formula.

15 MR. BISSMEYER: Objection; vague.

16 A. It's a software that, back in the day, is
17 called Interconnect, and they pool all the tips from the
18 POS and will share, you know, accordingly, a hundred
19 percent of a share for servers, gauchos, bartenders, 80
20 percent for CSR, and then 6 percent of that hundred --
21 of the total amount will be shared among the bussers.

22 Q. We just talked about -- you're referring to
23 credit card tips; is that correct?

24 A. Yes.

25 Q. And this software that you're referring to is

1 Q. Oh, I see. So there's actually two
2 distribution. One is the credit card tip, which the
3 computer will generate automatically, and then there is
4 the cash tip, which you will calculate and distribute
5 manually; is that correct?

6 A. I wouldn't calculate, I would just get a
7 number that the servers provided to me or the manager
8 will do the tips and just input that number in the
9 system.

10 Q. Okay. And so let me break this down. First,
11 is it a two part process, where the system would
12 generate and calculate how much to distribute to each
13 person on credit card tips?

14 And then there's a second phase where it
15 will recalculate how much people should receive in cash
16 tip, it's a two separate process?

17 A. You can say that or you -- if you going to
18 call that. I mean, we just make sure that the employees
19 that earned the tip were clocked in properly. We will
20 make sure that, you know, it's just -- if you want to
21 call it two process, you can. I mean, for me, it's just
22 one process. I mean, for count tips right there, and
23 now I have only to enter the amount of tip that they
24 have told me or other manager that was in the tips.

25 Q. I got it. You said that the Interconnect was

1 used from May to October -- from May 1st when you opened
2 the restaurant, so it's May 1st, 2018, until
3 October 2020, correct?

4 A. Correct.

5 Q. What did you do to calculate and distribute
6 tips after October 2020?

7 A. There was another software callid Suntek.

8 Q. Spell it for me.

9 A. Suntek, S-U-N-T-E-K.

10 Q. U-N-E-K?

11 A. S-U-N-T-E-K. Suntek.

12 Q. When did you use the Suntek software to
13 calculate and distribute tips?

14 A. Was about end of October until July, June or
15 July 2021.

16 Q. What did you use after July 2021?

17 A. We changed to a new software callid Gratuity
18 Solution.

19 Q. Spell it, please.

20 A. Gratuity G-R-A-T-U-I-T-Y, Gratuity Solution.

21 Q. You have been using Gratuity Solution since
22 July 2021 until now?

23 A. Yes.

24 Q. No matter which of the three software that you
25 just mentioned, the formulas stay the same; is that

1 I don't think I got an answer.

2 So are you able to, based on the POS
3 system, add up all tips that the manager -- the CSR
4 earned -- rung up during the pay period to see how
5 many -- how much in credit card tips that CSR worker
6 rung up?

7 MR. BISSMEYER: Objection; vague.

8 Q. (By Mr. Tran) Did you say yes?

9 A. Yes. Yes, they should.

10 Q. Okay. Now, you just described something new,
11 and that is, are people ringing up sales under each
12 other's ID or names?

13 MR. BISSMEYER: Objection; vague.

14 A. No. Every single one would input, you know,
15 in the POS, you know, their ID.

16 Q. (By Mr. Tran) I see. Now, what you just
17 mentioned is, do you ring up sales under your ID?

18 A. Yes.

19 Q. Do you allow other people to ring up sales
20 under your ID?

21 A. No.

22 Q. I'm going to show you Exhibit 27. This is the
23 Tip Pooling Agreement. How long has this agreement in
24 been in place?

25 (Exhibit No. 27 premarked)

1 A. This is since I believe it's been since July
2 2022 -- 20 -- July 2021.

3 Q. Is there something in writing that reflects
4 the Tip Pooling Agreement that was in place before
5 July 2021?

6 A. I believe we would tell -- when we hire a new
7 employee, we would tell them verbally.

8 Q. Okay. And in the formula you described
9 earlier where you have to tip out the busboy 6 percent,
10 or after July 2021, you tip them out based on a smaller
11 percentage. The tip pooling agreement, that's
12 mandatory, right, everybody had to participate in the
13 Tip Pooling Agreement for last three years?

14 A. Yes.

15 Q. That means that if you work as a waiter, a
16 bartender, or a gaucho, you have -- it's mandatory that
17 you share your tip in a tip pool that includes a CSR,
18 correct?

19 A. Yes. That's already what it says.

20 Q. If an employee doesn't want to participate in
21 that, then they'll -- they won't be able to keep the job
22 or they won't get the job; is that correct?

23 A. No.

24 Q. Okay. Has -- you ever given someone the
25 option to opt out of this tip sharing agreement where